



DocId:8880457

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**Return to:**

City Clerk  
116 E. Market Street  
Troy, Illinois 62294

2023R22161  
STATE OF ILLINOIS  
MADISON COUNTY  
08/21/2023 10:47 AM  
LINDA A. ANDREAS  
CLERK & RECORDER  
REC FEE: 50.00  
CO STAMP FEE:  
ST STAMP FEE:  
FF FEE:  
RHSPS FEE:  
# OF PAGES: 6



5000 CTY

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**Ordinance No. 2023 - 42**

An Ordinance Concerning Chapter 154 of the Troy Municipal Zoning Code (also known as the Troy Zoning Code) for the Purpose of Granting a Special Use on a Specific Parcel (i.e. 203 E. Highway 40)

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ADOPTED BY THE CITY COUNCIL

OF THE CITY OF TROY, ILLINOIS

THIS SEVENTH DAY OF AUGUST, 2023

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**WHEREAS**, the City of Troy, County of Madison, State of Illinois, presently has in force the Troy Zoning Code, which is contained in Chapter 154 of the Troy Municipal Code, also known as Ordinance No. 2004-21, adopted August 2, 2004 and as amended from time to time; and

L. Taake - 8/4/2023

DL

**WHEREAS**, John and Brittany Mollett, prospective buyers of 203 E. Highway 40 (PINs 09-1-22-16-02-201-011.001 and 09-1-22-16-02-201-011), are requesting a special use permit to continue the residential use in the upper level of the existing building that is zoned C-3 Highway Commercial while operating a commercial business in the lower level of the building. Residential uses are not permitted in the C-3 zoning district; and

**WHEREAS**, notice of such petition and hearing has been given as required by law; and

**WHEREAS**, a hearing on such petition was held by the Planning Commission on July 20, 2023; and

**WHEREAS**, the Planning Commission considered the testimony and exhibits offered on behalf of the application and the standards for issuance as described in Section 154.141(E) of the City of Troy Zoning Code; and

**WHEREAS**, in accordance with Section 154.141(F) of the City of Troy Zoning Code, the Planning Commission has submitted their recommendation No. 2023-10PC (attached), including findings of fact, to the City Council that such petition for special use be granted; and

**WHEREAS**, the City Council finds that the requested special use is in the best interest of the City of Troy, Illinois.

***NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TROY, MADISON COUNTY, ILLINOIS AS FOLLOWS:***

**SECTION 1:** The recitals contained above in the preamble of this Ordinance are hereby incorporated by reference, the same as if set forth in this section of this Ordinance verbatim, as findings of the City Council of the City of Troy, Illinois.

**SECTION 2:** The City Council hereby grants a special use permit to continue the residential use in the upper level while operating a commercial business in the lower level of the existing building at 203 E. Highway 40 (PIN# 09-1-22-16-02-201-011.001) that is zoned C-3 Highway Commercial.

**SECTION 3:** The special use permit is not transferable to successive owners of the property.

**SECTION 4:** The sale of this property is contingent on granting the special use.

**SECTION 5:** That all other provisions of said Chapter 154 shall remain unchanged and in full force and effect except as specifically amended by this ordinance.

**SECTION 6:** This Ordinance shall be effective upon its passage, signing, and publication as required by law.

**PASSED** by the City Council of the City of Troy, Madison County, Illinois, approved by the Mayor, and deposited in the office of the City Clerk this seventh day of August, 2023.

Aldermen:

Dawson AYE

Flint AYE

Hellrung AYE

Henderson AYE

Italiano AYE

Knoll AYE

Manley AYE

Turner AYE

Total:

8 Ayes

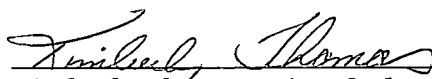
0 Nays

0 Abstain

APPROVED BY:

  
\_\_\_\_\_  
David Nonn, Mayor

ATTEST:

  
\_\_\_\_\_  
Kimberly Thomas, City Clerk



RECOMMENDATION No. 2023 ~ 09PC

Of the Planning Commission of the City of Troy, Illinois Recommending/Not Recommending an Application for a Special Use Permit Requested By John Mollett (i.e. continue the residential use of 203 E. Highway 40 zoned C-3 Highway Commercial)

WHEREAS, the Planning Commission met on July 20, 2023, to consider an application for a Special Use Permit filed by John Mollett. A copy of the application and certification by the City Clerk regarding publication of the notice of hearing and notification to surrounding property owners are incorporated by reference; and

WHEREAS, this application applies to property commonly known as 203 E. Highway 40 with permanent parcel identification numbers 09-1-22-16-02-201-011 and 09-1-22-16-02-201-011.001; and

WHEREAS, the Planning Commission considered the testimony and exhibits offered on behalf of the application; and the citizens on the attached sign-in sheet also testified regarding the application; and

WHEREAS, the Planning Commission, as per Section 154.141(E) Standards for Issuance and 154.141(F) Findings of Fact of the Zoning Ordinance of the City of Troy, Illinois, has attached as Exhibit A their findings to support this recommendation; and

WHEREAS, the Planning Commission voted as recorded below:

Adams ABSTAIN Curtis YES Reiter YES 8 Yeas
Bogue YES Lawrenz YES Stone YES 0 Nays
Compton YES Lybarger YES Talbert YES 1 Abstain

NOW THEREFORE BE IT RECOMMENDED BY THE PLANNING COMMISSION AS FOLLOWS:

That the application to continue the residential use in the upper level of the existing building at 203 E. Highway 40 that is zoned C-3 Highway Commercial while operating a commercial business in the lower level of the building. Residential uses are not permitted in the C-3 zoning district. The sale of this property is contingent on granting the special use.

Is Not Recommended; Is Recommended with the following stipulations, if any, noted below:

This special use permit IS / IS NOT transferable to successive owners of the property.

Copies of this recommendation are presented to the City Council; the original shall be filed with the Code Administrator.

Dated this 20th day of July, 2023.

By: [Signature] Chairman, Planning Commission

Attest: [Signature] Secretary, Planning Commission

# FINDINGS OF FACT

As per Section 154.141(F) Finding of Fact, Recommendation, the Planning Commission shall submit such recommendation, including the reason or reasons for the recommendation, in writing to the City Council; and, the recommendation so submitted, shall be accompanied by findings of fact referring to any exhibits containing plans and specifications for the proposed special use, copies of which shall remain a part of the permanent record of the Planning Commission, and specifying the following:

As per Section 154.141(E) Standards for Issuance, the Planning Commission shall not make a recommendation to the City Council to grant any special use permit unless, in each specific case, the Planning Commission has found that:	Findings:
a) The establishment, maintenance or operation of the special use <b>will not be detrimental to or endanger the public's health, safety, morals, comfort or general welfare;</b>	True <input checked="" type="checkbox"/> False <input type="checkbox"/> N/A <input type="checkbox"/>
b) The special use <b>will not be injurious to the use and enjoyment of other property in the immediate vicinity</b> for the purposes already permitted, <b>nor substantially diminish and impair property values</b> within the neighborhood;	True <input checked="" type="checkbox"/> False <input type="checkbox"/> N/A <input type="checkbox"/>
c) The establishment of the special use <b>will not impede the normal and orderly development and improvement of the surrounding property</b> for uses permitted in the district;	True <input checked="" type="checkbox"/> False <input type="checkbox"/> N/A <input type="checkbox"/>
d) Adequate utilities, access roads, drainage and/or other <b>necessary facilities have been or are being provided;</b>	True <input checked="" type="checkbox"/> False <input type="checkbox"/> N/A <input type="checkbox"/>
e) <b>Adequate measures have been or will be taken</b> to provide ingress and egress so designated as to <b>minimize traffic congestions</b> in the public streets;	True <input checked="" type="checkbox"/> False <input type="checkbox"/> N/A <input type="checkbox"/>
f) <b>Adequate measures have been taken or will be taken to protect any facilities near the proposed special use</b> , such as a school or nursing home that may require special protection.	True <input type="checkbox"/> False <input type="checkbox"/> N/A <input type="checkbox"/>
g) <b>The special use shall in all other respects, conform to the applicable regulations of the district</b> in which it is located, except as such regulations may in each instance be modified by the City Council pursuant to the recommendation of the Planning Commission.	True <input checked="" type="checkbox"/> False <input type="checkbox"/> N/A <input type="checkbox"/>
h) The special use, as conditioned, is <b>in keeping with the general purposes of the Zoning Ordinance and the Troy Comprehensive Plan.</b>	True <input type="checkbox"/> False <input type="checkbox"/> N/A <input checked="" type="checkbox"/>

1. The extent to which the proposed special use departs from the zoning and subdivision regulations of the City;

Grandfathered in special use already

2. The conformance or nonconformance of the proposed special use with the Standards for Issuance section;

Grandfathered already any changes must come back to planning commission on future transfer

3. The relationship and the compatibility of the proposed special use to adjacent properties and neighborhoods;

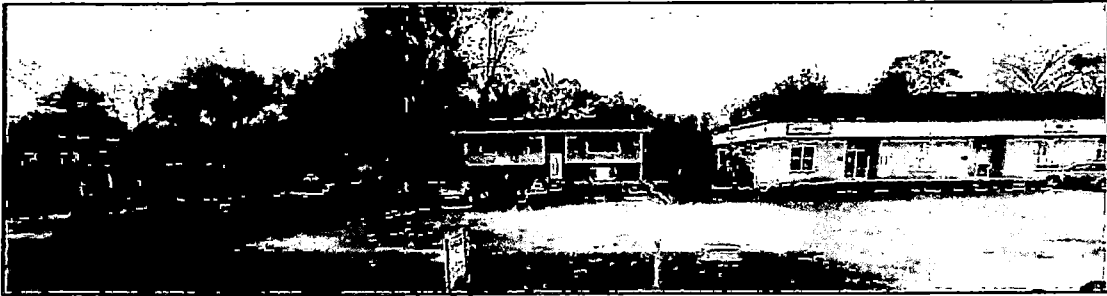
Already doing with owner living upstairs

4. The effect of the proposed special use on the development pattern, tax base, and economic well being of the City.

Based on business

[Signature]  
 Chairman, Planning Commission      Date

[Signature]  
 Secretary, Planning Commission      Date



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